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EXAMINER

DUDA, ADAM K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,769	Applicant(s) ISAKSSON, MIKAEL	
	Examiner ADAM DUDA	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/03/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7 and 8 lack the proper form for a claim directed to computer/machine readable instructions.

To be statutory claims directed to computer/machine readable instructions must be embodied on a computer readable medium encoded with a process or data structure usable by a computer. A Machine-readable medium is not acceptable. For the claim to be statutory the preamble of the claim must define a structural and functional interrelationship between the process or data structure and computer software and hardware components. As a result, the preamble of the claim must define a process or data structure as a computer readable medium embodying the process or data

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structure. Further, the computer readable medium cannot be any type of signal as defined by the specification or claim itself.

Examples of acceptable language in computer-processing related claims :

1. "computer readable medium" encoded with _____ (Options Below)
[a] "a computer program"
[b] "software"
[c] "computer executable instructions"
[d] "instructions capable of being executed by a computer"
2. "a computer readable medium" _____ (Options below) _____ "computer program"
[a] storing a
[b] embodied with a
[c] encoded with a
[d] having a stored
[e] having an encoded

Correction is required.

Allowable Subject Matter

3. Claims **4 and 13** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-15 rejected under 35 U.S.C. 103(a) as being unpatentable over **Madan (“How DSL Works”)** in view of **Bengtsson (“Zipper Performance when mixing ADSL and VDSL in terms of reach and capability”)**.

Madan discloses:

Regarding claim 1, (original) a method performed in one single transceiver for allocating transmission capacity between the two directions of transmission in wire line data communication (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “example of an ADSL connection from your home to your service provider’s central office (CO)”**), characterized by the step of allocating (i.e. giving; see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; having “voice transferred on lower frequency bands” and “data on higher frequency bands” thus allocating**) from said single transceiver (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “ADSL connection from your home to your service provider” thus a single transceiver**) different parts of the available bandwidth (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) to different methods simultaneously (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “echo cancellation” and “frequency division multiplexing”**).

Regarding claim 2, the method.

Regarding claim 3, (currently amended) a method, wherein the step of allocating comprises allocating a first frequency (i.e. low frequency band; see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “lower frequency”**) band comprising the lowest available frequency band to full duplex (i.e. upstream/downstream; see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “upstream” and “downstream”**) with echo cancellation (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “In echo cancellation, the upstream path overlaps the downstream path and the two are separated by a method called local echo cancellation”**).

Regarding claim 5, (currently amended) a method, wherein the step of allocating comprises allocating a frequency (i.e. **low frequency band; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) band for the highest of the available bandwidth (i.e. **high frequency; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “data on higher ones”** in reference to higher frequencies for DSL such as **“RADSL, HDSL, IDSL, SDSL, and VDSL” as disclosed on pages 1 and 2 of 4”**)

Regarding claim 6, (currently amended) a method, wherein the step of allocating comprises allocating a frequency (i.e. **low frequency band; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) band of the available bandwidth (see Madan; page 3 of 4 **“Continued from Page 1: How DSL works”; “frequency” thus containing available bandwidth**)

Regarding claim 7, (currently amended) a computer program product directly loadable into the internal memory of a processing means within a computer placed in a transceiver, comprising the software code means for performing the steps of claim 1 (see Madan; page 3 of 4 **“Continued from Page 1: How DSL works”; using a “DSL” modem thus a modem containing low level and high level instructions embedded on a computer readable medium**).

Regarding claim 8, (currently amended) a computer program product stored on a computer usable medium, comprising readable program for causing a processing means in a computer placed in a transceiver, to control an execution of the steps of claim 1 (see Madan; page 3 of 4 **“Continued from Page 1: How DSL works”; using a “DSL” modem thus having a transceiver and encoded with low level and high level instructions on a computer readable medium**).

Madan does not specifically disclose:

Regarding claim 1, where the different methods are duplex methods.

Regarding claim 2, using the Zipper technique for the data transmission.

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Regarding claim 5, where the available bandwidth allocated to burst mode duplex **(It would have been obvious to one of ordinary skill in the art at the time of the invention to use burst mode duplex with VDSL as burst mode duplex is well known to be used with VDSL) .**

Regarding claim 6, allocation to TDD.

Bengtsson more specifically discloses:

Regarding claim 1, where the different methods are duplex methods **(see Bengtsson; "page 1(10) Abstract"; "Zipper performance has been compared with both a TDD proposal and a FDD proposal" and "concluded that when using the Zipper duplex scheme, VDSL can coexist with ADSL in the same binder" and "all studied mixes of ADSL and VDSL sharing the same binder").**

Regarding claim 2, using the Zipper technique for the data transmission **(see Bengtsson; "page 1(10) Abstract"; "In this contribution we examined how the maximum reach vary at different bit rates on a VDSL system, when different numbers of ADSL and VDSL systems share the same binder").**

Regarding claim 6, allocation to TDD **(see Bengtsson; abstract; "zipper performance has been compared with both a TDD proposal and a FDD proposal").**

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of **Madan**, as taught by **Bengtsson**, thereby allowing the coexistence of DSL with ADSL in the same binder (i.e. cable) without significant degradation to each due to NEXT and FEXT **(see Bengtsson; Abstract).**

Madan discloses:

Regarding claim 9, (original) a transceiver (see **Madan; page 3 of 4 “Continued from Page1: How DSL works”; “DSL transceiver or modem”**) adapted to be positioned in communication sites of a wire line data communication system (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “example of an ADSL connection from your home to your service provider’s central office (CO)”**), said transceiver being adapted to transmit and receive data in the system (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “connection from your home to your service provider’s central office (CO)” thus transmitting and receiving data between transceivers**) and comprises a control unit (15) adapted to control the functions of the transceiver (see **Madan; page 3 of 4 “Continued from Page1: How DSL works”; “DSL transceiver or modem” thus containing a control unit**), characterized in that said control unit (15) is adapted to control the transceiver (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “ADSL connection from your home to your service provider” thus a single transceiver**) to allocate (i.e. giving; see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; having “voice transferred on lower frequency bands” and “data on higher frequency bands” thus allocating**) different parts of the available frequency bandwidth (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) to different duplex-methods simultaneously (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “echo cancellation” and “frequency division multiplexing”**).

Regarding claim 10, (currently amended) a transceiver (see **Madan; page 3 of 4 “Continued from Page1: How DSL works”; “DSL transceiver or modem”**), wherein the control unit (15) is adapted to control an echo canceller (13) in the transceiver to only echo cancel signals received in the transceiver in certain predefined frequency bands (see **Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “In echo cancellation, the upstream path overlaps the downstream path and the two are separated by a method called local echo cancellation”**).

Regarding claim 11, (currently amended) a transceiver (see Madan; page 3 of 4 **“Continued from Page1: How DSL works”; “DSL transceiver or modem”**).

Regarding claim 12, (currently amended) a transceiver (see Madan; page 3 of 4 **“Continued from Page1: How DSL works”; “DSL transceiver or modem”**), wherein the control unit (15) is adapted to control the transceiver to allocate a first frequency (i.e. **low frequency band; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “lower frequency”**) band comprising the lowest available frequency band to full duplex (i.e. **upstream/downstream; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “upstream” and “downstream”**) with echo cancellation (see Madan; page 3 of 4 **“Continued from Page 1: How DSL works”; “In echo cancellation, the upstream path overlaps the downstream path and the two are separated by a method called local echo cancellation”**).

Regarding claim 14, (currently amended) a transceiver (see Madan; page 3 of 4 **“Continued from Page1: How DSL works”; “DSL transceiver or modem”**), wherein the control unit (15) is adapted to control the transceiver to allocate a frequency (i.e. **low frequency band; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) band for the highest of the available bandwidth (i.e. **high frequency; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “data on higher ones”** in reference to higher frequencies for DSL such as **“RADSL, HDSL, IDSL, SDSL, and VDSL”** as disclosed on **pages 1 and 2 of 4”**).

Regarding claim 15, (currently amended) a transceiver (see Madan; page 3 of 4 **“Continued from Page1: How DSL works”; “DSL transceiver or modem”**), wherein the control unit (15) is adapted to control the transceiver to allocate a frequency (i.e. **low frequency band; see Madan; page 3 of 4 “Continued from Page 1: How DSL works”; “frequency”**) band of the available bandwidth (see Madan; page 3 of 4 **“Continued from Page 1: How DSL works”; “frequency” thus containing available bandwidth**).

Madan does not specifically disclose:

Regarding claim 9, where the different methods are duplex methods.

Regarding claim 11, using the Zipper technique for the data transmission.

Regarding claim 14, where the available bandwidth allocated to burst mode duplex **(It would have been obvious to one of ordinary skill in the art at the time of the invention to use burst mode duplex with VDSL as burst mode duplex is well known to be used with VDSL).**

Regarding claim 15, allocation to TDD.

Bengtsson more specifically discloses:

Regarding claim 9, where the different methods are duplex methods **(see Bengtsson; "page 1(10) Abstract"; "Zipper performance has been compared with both a TDD proposal and a FDD proposal" and "concluded that when using the Zipper duplex scheme, VDSL can coexist with ADSL in the same binder" and "all studied mixes of ADSL and VDSL sharing the same binder").**

Regarding claim 11, using the Zipper technique for the data transmission **(see Bengtsson; "page 1(10) Abstract"; "In this contribution we examined how the maximum reach vary at different bit rates on a VDSL system, when different numbers of ADSL and VDSL systems share the same binder").**

Regarding claim 14, where the available bandwidth allocated to burst mode duplex **(It would have been obvious to one of ordinary skill in the art at the time of the invention to use burst mode duplex with VDSL as burst mode duplex is well known to be used with VDSL).**

Regarding claim 15, allocation to TDD **(see Bengtsson; abstract; "zipper performance has been compared with both a TDD proposal and a FDD proposal").**

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of **Madan**, as taught by **Bengtsson**, thereby allowing

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the coexistence of DSL with ADSL in the same binder (i.e. cable) without significant degradation to each due to NEXT and FEXT (**see Bengtsson; Abstract**).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM DUDA whose telephone number is (571)270-5136. The examiner can normally be reached on Mon. - Fri. 9:30 a.m. - 7:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang B. Yao can be reached on (571) 272 - 3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ADAM DUDA/
Examiner, Art Unit 2416
10 October 2008

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2416